

### REMARKS

Applicant thanks the Examiner for total consideration given the present application. Claims 1-14 are currently pending of which claims 1 and 8 are independent. Claims 1 and 8 have been amended through this Reply. Applicant respectfully requests reconsideration of the rejected claims in light of the amendment and remarks presented herein, and earnestly seek timely allowance of all pending claims.

#### 35 U.S.C. § 102 REJECTION – Matsunaga

Claims 1-3, 5-10, and 12-14 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Matsunaga (U.S. 2004/0066746 A1)[hereinafter "Matsunaga"]. Applicant respectfully traverses this rejection.

For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. *See M.P.E.P. 2131; M.P.E.P. 706.02*. Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, Matsunaga fails to teach or suggest each and every claimed element. For example, amended independent claim 1 recites, *inter alia*, "wherein each received IP packets is assigned a priority based on an amount of data stored in a statistical information storage field which stores statistical information of a target session and the transfer rate of each received IP packets and for disabling a transfer of received IP packets that are determined to be burstly transmitted to said router apparatus according to said priority, wherein the statistical information storage field includes a already-processed indicating flag region which indicates whether the router apparatus has discarded the burstly transmitted received IP packets associated with the target session." *Emphasis added.* Independent claim 8 is directed to a method claim corresponding to the apparatus of claim 1.

As previously submitted, Matsunaga merely discloses a packet transfer rate monitoring control apparatus and method in packet communication network in which the minimum guaranteed rate and maximum limiting rate of packet transfer rate are contracted for each service which a subscriber uses. Although Matsunaga teaches queuing of packets for each flow and

packet discarding and shaping in accordance with a transport layer protocol, nowhere does Matsunaga teach or suggest the above-identified claim feature of independent claim 1.

The Examiner merely points to paragraphs 0011, 0020, 0035, 0074, 0075, and 0079-0095 of Matsunaga as disclosing “wherein each received IP packets is assigned a priority based on an amount of data stored in a statistical information storage field which stores statistical information of a target session and the transfer rate of each received IP packets and for disabling a transfer of received IP packets that are determined to be burstly transmitted to said router apparatus according to said priority.”

Although Matsunaga teaches that the measured packet transfer rate is compared with rate information preset for each flow to determine priority order in which individual received packets are transferred, nowhere does Matsunaga teach or suggest disabling a transfer of received IP packets that are determined to be burstly transmitted to the router apparatus according to the priority. Indeed, Matsunaga teaches determining priority order of the received packets and transferring such received packets based on the priority, not disabling the transfer of the received IP packets according to the priority as required by claim 1.

Further, the Examiner relies on Matsunaga’s Flow Identification Database 303 and q target session as disclosing “wherein each received IP packets is assigned a priority based on an amount of data stored in a statistical information storage field which stores statistical information of a target session.” It is respectfully submitted that the Examiner is totally misinterpreting the Flow Identification Database 303 of Matsunaga. As taught by Matsunaga, the Flow Identification Database 303 holds information concerning a packet header, e.g., a transmission source IP address 540, destination IP address 541, transport layer protocol 542, transmission source port number 543, and destination port number 544 and performs mapping for a corresponding flow identifier. In contrast, the claimed invention is directed to a router apparatus in which the received IP packets are assigned a priority based on an amount of data stored in a statistical information storage field which stores statistical information of a target session. Matsunaga clearly fails to teach or suggest assigning a priority order based on the amount of data stored in the Flow Identification Database 303. As demonstrated above, in

Matsunaga, priority order for transferring a received packet is determined by comparing the measured packet transfer rate with a preset rate information of the upper layer flow to which the received packet belongs. The Flow Identification Database 303 does not hold information regarding the measured packet transfer rate nor a preset rate information of the upper layer flow to which the received packet belongs. Thus, it is respectfully submitted that Matsunaga fails to teach or suggest “wherein each received IP packets is assigned a priority based on an amount of data stored in a statistical information storage field which stores statistical information of a target session” as recited in claim 1.

Applicant further respectfully submits that Matsunaga fails to suggest that “the statistical information storage field includes a already-processed indicating flag region which indicates whether the router apparatus has discarded the burstly transmitted received IP packets associated with the target session” as now recited in independent claim 1.

Therefore, for at least these reasons, independent claim 1 is distinguishable from Matsunaga. Claim 8 is a method claim corresponding to the apparatus of claim 1. Thus, for at least the reasons stated with respect to claim 1, claim 8 is also distinguishable from Matsunaga. Claims 2-3, 5-7, 9, 10, and 12-14 are distinguishable from Matsunaga at least by virtue of their dependency on corresponding independent claim.

Accordingly, Applicant respectfully requests that the rejection of claims 1-3, 5-10, and 12-14, based on Matsunaga, be withdrawn.

35 U.S.C. § 103 REJECTION – Matsunaga, Lo

Claims 4 and 11 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Matsunaga in view of Lo et al. (U.S. 2003/0095567 A1)[hereinafter “Lo”]. Applicant respectfully traverses. Claim 4 depends from claim 1 and claim 11 depends from claim 8. As demonstrated above, Matsunaga fails to teach or suggest “wherein each received IP packets is assigned a priority based on an amount of data stored in a statistical information storage field which stores statistical information of a target session and the transfer rate of each received IP packets and for disabling a transfer of received IP packets that are determined to be burstly transmitted to said router apparatus according to said priority, wherein the statistical information

storage field includes a already-processed indicating flag region which indicates whether the router apparatus has discarded the burstly transmitted received IP packets associated with the target session" as recited in claim 1 (or method claim 8). Lo has not been, and indeed cannot be, relied upon to fulfill at least this deficiency of Matsunaga. Therefore, it is respectfully requested to withdraw the rejection of claims 4 and 11 based on Matsunaga and Lo.

**Conclusion**

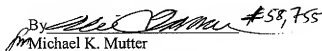
In view of the above remarks, it is believed that all pending claims are allowable.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Ali M. Imam Reg. No. 58,755 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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